IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

MONDAY, THE 22ND OCTOBER 2007 / 30TH ASWINA 1929

RPFC.No. 134 of 2005()

AGAINST THE ORDER DATED 02/03/2005 IN CMP 948/04 IN MC.442/1999 of 1999 OF FAMILY COURT, KOZHIKODE

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REVISION PETITIONER/RESPONDENT:

M.V. AADAM MON, S/O. AHAMMEDKUTTY,
VAKERIKUTTITHODI, P.O. CHELAMBRA,
THIROORANGADI, MALAPPURAM DISTRICT,
THENJIPPALAM PSI.

BY ADV. SRI.T.SETHUMADHAVAN
SRI.PUSHPARAJAN KODOTH
SRI.K.JAYESH MOHANKUMAR

RESPONDENTS:

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1. SAINABA, D/O. LATE ATHANKUTTY,
POTTAMMALTHAZHAM HOUSE, P.O. VYDYARANGADI,
VELIPRAM AMSOM, DESOM, KOZHIKODE TALUK.

2. RASEENA, MINOR, 15 YEARS.

3. RABIYA, MINOR, 13 YEARS.

4. SIRAJ, MINOR 11 YEARS,
(RESPONDENTS 2 TO 4 ARE REPRESENTED BY THE
FIRST RESPONDENT).

BY ADV. SRI.RENJITH B.MARAR

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD ON 22/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

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R.P.(F.C.) No. 134 of 2005

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Dated: 22-10-2007

ORDER

The revision petitioner Aadam Mon was the counter petitioner in C.M.P. No. 948 of 2004 in M.C. 442 of 1999 filed under Sec. 127 Cr.P.C. on behalf of the three children born to the revision petitioner in the first respondent Sainaba.

2. The marriage between the revision petitioner and the first respondent was solemnized on 23-11-2986 and three children were born to them in that wedlock. In the year 1999 the first respondent filed M.C. 442 of 1999 before the Family Court, Kozhikode. seeking maintenance under Sec. 125 Cr.P.C. on behalf of the three children . As per order dated 27-1-2000 the Family court ordered maintenance to the three children at the rate of Rs. 300/- each. Thereafter in the year 2004 the first respondent filed the present application as C.M.P. 948 of 2004 under Sec. 127 Cr.P.C. seeking enhanced maintenance to each of the three children at the rate of Rs. 2,000/- per month. As per the impugned order dated 2-3-2005, the Family court enhanced the sum to Rs. 1,000/-. There is no dispute that pursuant to the orders passed by the Family Court the revision petitioner deposited maintenance at the rate of Rs. 1000/- up to 2006 and thereafter he has committed default.

3. The fact that the revision petitioner is a collie and at present he is having no job and he gets work only occasionally as spoken to by the revision petitioner examined on 15-2-2005 as R.W.1 in the present application has not been challenged in his cross-

examination. Even when the original order of maintenance was passed on 27-1-2000, the Family Court was careful enough to direct him to pay at the rate of Rs. 300/- per child. No doubt, the children have grown up and are studying in higher classes resulting in increased demand which in turn may constitute change in circumstance as contemplated by Sec. 127 Cr.P.C. But the enhancement given in this case was more than three times the original amount awarded. In the circumstances in which the revision petitioner is placed, he has no option except going to jail. That may hardly be a solace to the three children. Considering the relevant facts and circumstances of the case, I am of the view that an enhancement which is warranted in this case is only at the rate of Rs.650/- per child. Accordingly, the impugned order will stand modified and C.M.P. 948 of 2004 shall stand ordered awarding enhanced maintenance at the rate of Rs. 650/- per child per month as against the original amount of Rs. 300/- per child. The revision petitioner is given two month's time to deposit the arrears of maintenance. Future maintenance shall be deposited in accordance with this revised order.

This Revision is disposed of as above.

V. RAMKUMAR,
(JUDGE)

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